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~~EXECUTIVE SECRETARIAT~~

ROUTING SLIP

TO:

		ACTION	INFO	DATE	INITIAL
1	DCI		X (w/o Report)		
2	DDCI		X (w/o Report)		
3	EXDIR		X (w/o Report)		
4	D/ICS				
5	DDI				
6	DDA				
7	DDO				
8	DDS&T				
9	Chm/NIC				
10	GC				
11	IG				
12	Compt				
13	D/OCA				
14	D/PAO				
15	D/PERS				
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22	ER				
SUSPENSE		Date			

Remarks

Full report (150 + pages) being
routed thru OCA, OGC & DDA.

STAT

01 Executive Secretary
4 Apr 88

Date

ROUTING AND TRANSMITTAL SLIP

4 Apr 88

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Action	File	Note and Return	
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REMARKS

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L-110-11

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Any need for a short response from DCI?

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Thanks,

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United States Department of State

The Chief of Protocol
Washington, D.C. 20520

Executive Registry

88-0373x/1

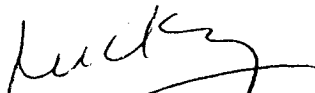
March 28, 1988

Dear Bill:

I wanted to keep you informed of developments pertaining to Congressional interest in diplomatic immunity and therefore am forwarding the enclosed copy of the Department's response to a Congressional request for a report on the subject.

With best wishes,

Sincerely,



Selwa Roosevelt

Enclosure:

Copy of Report dated March 18, 1988.

The Honorable
William H. Webster,
Director of Central Intelligence.





FOREIGN RELATIONS AUTHORIZATION ACT
FISCAL YEARS 1988 AND 1989
P.L. 100-204
SECTION 137

STUDY AND REPORT
CONCERNING THE STATUS OF INDIVIDUALS
WITH DIPLOMATIC IMMUNITY IN THE UNITED STATES

PREPARED BY
UNITED STATES
DEPARTMENT OF STATE
MARCH 18, 1988

United States Department of State

EXHIBIT C

Guidance for Law Enforcement Officers

Personal Rights and Immunities of Foreign Diplomatic and Consular Personnel



ROUTING SLIP

ER

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SUSPENSE

Date

Remarks

STAT

Executive Secretary

3 Feb '88

Date

3637 (10-81)

United States Department of State
The Chief of Protocol
Washington, D.C. 20520

Executive Registry

88-0373X

January 27, 1988

The Honorable
William H. Webster
Director of Central Intelligence
Washington, D.C. 20505

Dear Bill:

I am writing to you in further regard to recent Congressional interest in the subject of diplomatic immunity.

Last summer I forwarded a copy of my testimony before the Senate Foreign Relations Committee on S. 1437, a bill which would have eliminated immunity in certain cases. Although that legislation was not enacted, Section 137 of the State Department Authorization Act requires the study and submission of a report by the Secretary of State concerning the status of individuals with diplomatic immunity in the United States.

For your further information, enclosed is a copy of the Congressional Record which sets forth this proposal in detail.

Sincerely,


Selwa Roosevelt

Enclosure:
As stated.

DCI
EXEC
REG

L-110-15

CONGRESSIONAL RECORD — HOUSE

December

14, 1987

SEC. 137. STUDY AND REPORT CONCERNING THE STATUS OF INDIVIDUALS WITH DIPLOMATIC IMMUNITY IN THE UNITED STATES.

(a) **STUDY.**—The Secretary shall undertake a study of the minimum liability insurance coverage required for members of foreign missions and their families and the feasibility of requiring an increase in such minimum coverage. In conducting such study, the Secretary shall consult with members of the insurance industry, officials of State insurance regulatory bodies, and other experts, as appropriate. The study shall consider the following:

(1) The adequacy of the currently required insurance minimums, including the experiences of injured parties.

(2) The feasibility and projected cost of increasing the current minimum coverages to \$1,000,000 or some lesser amount in the commercial insurance market, including consideration of individual umbrella policies to provide additional coverage above the current minimum.

(3) The feasibility and cost of requiring additional coverage up to \$1,000,000 through a single group insurance arrangement, administered by the Department, providing umbrella coverage for the entire class of foreign officials who are immune from the jurisdiction of the United States.

(4) The consequences to United States missions abroad, including their costs of operation, that might reasonably be anticipated as a result of requiring an increase in the insurance costs of foreign missions in the United States.

(5) Any other issues and recommendations the Secretary may consider appropriate.

(b) **REPORT.**—The Secretary shall compile a report to the Congress concerning the problem arising from diplomatic immunity from criminal prosecution and from civil suit. The report shall set forth the background of the various issues arising from the problem, the extent of the problem, an analysis of proposed and other potential measures to address the problem (including an analysis of the costs associated with and difficulties of implementing the various proposals), consider the potential and likely impact upon United States diplomatic personnel of actions in other nations that are comparable to such proposals, and make recommendations for addressing the problem with respect to the following:

(1) The collection of debts owed by foreign missions and members of such missions and their families to individuals and entities in the United States.

(2) A detailed catalog of incidents of serious criminal offenses by persons entitled to immunity under the Vienna Convention on Diplomatic Relations and other treaties to assist in developing an understanding of the extent of the problem.

(3) The feasibility of having the Department of State develop and periodically submit to the Congress a report concerning—

(A) serious criminal offenses committed in the United States by individuals entitled to immunity from the criminal jurisdiction of the United States; and

(B) delinquency in the payment of debts owed by foreign missions and members of such missions and their families to individuals and entities in the United States.

(4) Methods for improving the education of law enforcement officials on the extent of immunity provided to members of foreign missions and their families under the Vienna Convention on Diplomatic Relations and other treaties.

(5) Proposals to assure that law enforcement officials fully investigate, charge, and institute and maintain prosecution of members of foreign missions and their families to the extent consistent with the obligations of the United States under the Vienna Convention on Diplomatic Relations and other treaties.

(6) The extent to which existing practices regarding the circumstances under which diplomatic visas under section 101(a)(15)(A) of the Immigration and Nationality Act are issued and revoked are adequate to ensure the integrity of the diplomatic visa category.

(7) The extent to which current registration and documentation requirements fully and accurately identify individuals entitled to diplomatic immunity.

(8) The extent to which the Department of State is able to identify diplomats allegedly involved in serious crimes in the United States so as to initiate their removal from the United States and the extent to which existing law may be inadequate to prevent the subsequent readmission of such individuals under nonimmigrant and immigrant categories unrelated to section 101(a)(15)(A) of the Immigration and Nationality Act.

(9) A comparison of the procedures for the issuance of visas to diplomats from foreign nations to the United States and international organizations with the procedures accorded to United States diplomats to such nations and to international organizations in such nations, and recommendations to achieve reciprocity in such procedures.

(10)(A) A review of the definition of the term "family" under the Diplomatic Relations Act.

(B) An evaluation of the effect of amendments to the term "family" on the number of persons entitled to diplomatic immunity in the United States.

(C) An evaluation of the potential effect of various amendments to the term "family" under the Diplomatic Relations Act on the number of serious criminal offenses committed in the United States by members of foreign missions and their families entitled to immunity from the criminal jurisdiction of the United States.

(11) An examination of all possible measures to prevent the use of diplomatic pouches for the illicit transportation of narcotics, explosives, or weapons.

(12) An examination of the considerations in establishing a fund for compensating the victims of crimes committed by persons entitled to immunity from criminal prosecution under the Vienna Convention on Diplomatic Relations and other treaties, including the feasibility of establishing an insurance fund financed by foreign missions.

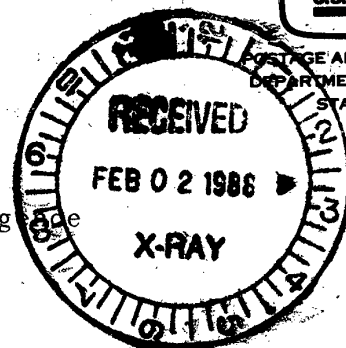
(c) **CONGRESS.**—Not more than 90 days after the date of enactment of this Act, the findings and recommendations of the study under subsection (a) and the report under subsection (b) shall be submitted to the Committee on the Judiciary and the Committee on Foreign Relations of the Senate and the Committee on the Judiciary and the Committee on Foreign Affairs of the House of Representatives.

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DEPARTMENT OF STATE, U.S.A.
WASHINGTON, D. C. 20520

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The Honorable
William H. Webster
Director of Central Intelligence
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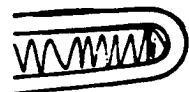
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DRAFT 7/27/87

**STATEMENT OF SELWA ROOSEVELT
CHIEF OF PROTOCOL
DEPARTMENT OF STATE**

**BEFORE THE COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE**

ON AUGUST 5, 1987



DRAFT

**STATEMENT OF SELWA ROOSEVELT
CHIEF OF PROTOCOL
DEPARTMENT OF STATE**

**BEFORE THE COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE**

ON AUGUST 5, 1987

I AM SELWA ROOSEVELT, CHIEF OF PROTOCOL. I APPEAR HERE TODAY PURSUANT TO THE INVITATION EXTENDED TO THE DEPARTMENT OF STATE BY CHAIRMAN PELL TO SUBMIT THE DEPARTMENT'S VIEWS ON S. 1437, INTRODUCED BY SENATOR HELMS. WITH ME ARE MR. RICHARD GOOKIN, ASSOCIATE CHIEF OF PROTOCOL AND MS. JOAN DONOGHUE, ATTORNEY-ADVISED AT THE DEPARTMENT OF STATE.

I AM RESPONSIBLE FOR THE ACCREDITATION OF FOREIGN GOVERNMENT PERSONNEL IN THE UNITED STATES. BY VIRTUE OF THEIR STATUS AS MEMBERS OF DIPLOMATIC MISSIONS, CONSULAR POSTS AND INTERNATIONAL ORGANIZATIONS, THEY ARE ENTITLED TO CERTAIN PRIVILEGES AND IMMUNITIES.

MR. CHAIRMAN, I HAVE A WRITTEN STATEMENT FOR THE COMMITTEE. WITH YOUR PERMISSION, I WOULD LIKE TO READ IT.

AT THE OUTSET, I WANT TO MAKE VERY CLEAR THAT THE DEPARTMENT OF STATE ABHORS ANY WRONG-DOING ON THE PART OF PERSONS ENTITLED TO DIPLOMATIC IMMUNITY. I AM NOT HERE TO DEFEND THE INDEFENSIBLE, WHETHER FOR PETTY OR LARGE CRIMES. THE SERIOUS ABUSES - ALTHOUGH RARE - WHICH HAVE BROUGHT THIS

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MATTER TO YOUR ATTENTION CONCERN ME DEEPLY AND I HAVE WORKED HARD DURING MY FIVE YEARS AS CHIEF OF PROTOCOL TO INSTITUTE A MORE EFFECTIVE RESPONSE TO ALLEGATIONS OF DIPLOMATIC CRIME. I HAVE ESTABLISHED A REPUTATION IN THE DIPLOMATIC COMMUNITY FOR TOUGHNESS. I CANNOT EMPHASIZE HOW STRONGLY I FEEL AND HAVE ALWAYS FELT ABOUT THIS. AT THE SAME TIME, WE HAVE TO BRING RATIONAL THINKING TO A SUBJECT WHERE THERE ARE NO WINNERS. WE MUST WEIGH EXTREME REMEDIAL MEASURES AGAINST THE GREATER GOOD.

THE DEPARTMENT OF STATE HAS GIVEN CAREFUL CONSIDERATION TO THE BILL UNDER DISCUSSION WHICH, IF ENACTED, WOULD PROVIDE THAT "...MEMBERS OF A FOREIGN DIPLOMATIC MISSION (OTHER THAN DIPLOMATIC AGENTS) AND MEMBERS OF A FOREIGN CONSULAR POST (OTHER THAN CONSULAR OFFICERS) SHALL NOT BE ENTITLED TO IMMUNITY FROM THE CRIMINAL JURISDICTION OF THE UNITED STATES (OR OF ANY STATE) FOR ANY CRIME OF VIOLENCE, AS DEFINED IN SECTION 16 OF TITLE 18, UNITED STATES CODE, OR FOR RECKLESS DRIVING OR DRIVING WHILE INTOXICATED OR UNDER THE INFLUENCE OF ALCOHOL OR DRUGS." MORE SPECIFICALLY, THE LACK OF ENTITLEMENT TO IMMUNITY IN SUCH CIRCUMSTANCES WOULD APPLY TO THE FAMILY MEMBERS OF DIPLOMATS AND TO THE MEMBERS OF THE ADMINISTRATIVE AND TECHNICAL STAFF OF DIPLOMATIC MISSIONS AND THEIR FAMILY MEMBERS AND TO MEMBERS OF THE SERVICE STAFF.

MR. CHAIRMAN, WITH ALL DUE RESPECT, WE CANNOT SUPPORT THIS PROPOSAL. IT WOULD BE DETRIMENTAL TO UNITED STATES INTERESTS ABROAD.

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AS THE COMMITTEE IS NO DOUBT AWARE, IT IS A BASIC PRINCIPLE THAT ALL PERSONS ENJOYING PRIVILEGES AND IMMUNITIES ARE OBLIGED TO RESPECT THE LAWS AND REGULATIONS OF THE HOST COUNTRY, AND FOR THE MOST PART THEY DO. WE MUST NOT ALLOW OCCASIONAL IRRESPONSIBILITY, HOWEVER, TO BRING INTO DISREPUTE THE ENTIRE SYSTEM OF DIPLOMATIC IMMUNITY. THERE EXIST MEANS (ALTHOUGH NOT PERFECT) OF DEALING WITH THE RARE INSTANCE OF SERIOUS CRIMINAL ACTIVITY ALLEGEDLY COMMITTED BY PRIVILEGED PERSONNEL. BUT, I WISH TO STATE EMPHATICALLY THAT IT WOULD BE UNWISE AND UNNECESSARY TO ENACT LEGISLATION OF THIS NATURE.

THE BASIS OF MY CONCERN IS THAT THERE ARE (NUMBER) AMERICANS (AND THEIR FAMILIES?) SERVING AT 302 FOREIGN SERVICE POSTS ABROAD (ANY CLOSED?). ALL OF WHOM ARE PROTECTED BY IMMUNITY IN ACCORDANCE WITH INTERNATIONAL LAW.

ENACTMENT OF THE MEASURE WOULD PLACE IN JEOPARDY THE INTERNATIONAL FRAMEWORK UNDER WHICH THESE PERSONS ARE PROTECTED. AS THE COMMITTEE IS AWARE, THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS, WHICH WAS FRAMED IN 1961, AND WHICH ENTERED INTO FORCE FOR THE UNITED STATES IN 1972, IS THE MODERN CODIFICATION OF CUSTOMARY INTERNATIONAL LAW ON THE SUBJECT. IT HAS BEEN SUBSCRIBED TO BY 143 NATIONS.

WITHOUT DOUBT, THE PROPOSED BILL WOULD HAVE AN ADVERSE EFFECT ON THE SAFETY AND ABILITY OF UNITED STATES DIPLOMATIC MISSIONS AND THEIR PERSONNEL ABROAD TO FUNCTION PROPERLY. IF

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FAMILY MEMBERS OF FOREIGN DIPLOMATS STATIONED HERE. AS WELL AS EMBASSY STAFF MEMBERS AND THEIR FAMILIES. WERE MADE SUBJECT TO CRIMINAL JURISDICTION IN CERTAIN CIRCUMSTANCES. WE CAN EXPECT THAT ON THE BASIS OF RECIPROCITY, THE SAME EXCEPTION WOULD APPLY TO AMERICANS IN SIMILAR POSITIONS ABROAD. WE CANNOT RULE OUT THE POSSIBILITY THAT A FOREIGN GOVERNMENT WOULD FIND IT IN ITS INTERESTS TO ACCUSE UNJUSTLY FAMILY MEMBERS OF AMERICAN DIPLOMATS, AND OTHERS, OF CRIMES.

TOTAL IMMUNITY FROM THE CRIMINAL JURISDICTION OF THE HOST COUNTRY'S COURTS PROTECTS OUR PERSONNEL FROM GOVERNMENTS WHICH MIGHT BE INCLINED TO FABRICATE CRIMINAL CHARGES AGAINST NOT ONLY OUR DIPLOMATS, BUT THE MEMBERS OF THEIR FAMILIES, AS WELL AS STAFF MEMBERS AND FAMILIES. ALSO, SUCH PERSONS COULD BE ACCUSED OF CRIMES COMMITTED BY OTHERS. FURTHERMORE, THE COURTS OF SUCH STATES MIGHT WELL BE SUSCEPTIBLE TO MANIPULATION.

TOTAL IMMUNITY PRECLUDES THE NEED FOR THE UNITED STATES TO BE CONSTANTLY CONCERNED ABOUT FACILE DISTINCTIONS WHICH FOREIGN PROSECUTORS AND COURTS MIGHT MAKE WITH RESPECT TO WHETHER A PARTICULAR OFFENSE IS OR IS NOT A CRIME FOR WHICH IMMUNITY SHOULD OBTAIN. MOREOVER, EVEN IF THROUGH INTERNATIONAL AGREEMENT IT WERE POSSIBLE TO SATISFACTORILY AND NARROWLY FORMULATE THE DEFINITION OF A PARTICULAR TYPE OF CRIME, ULTIMATELY IT WOULD BE FOR THE COURTS OF THE RECEIVING STATES TO CONSIDER THE FACTS OF ANY GIVEN INCIDENT TO DETERMINE WHETHER THE PERPETRATOR OF THE ALLEGED CRIME IS IMMUNE OR NOT.

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TAKE, FOR EXAMPLE, A HYPOTHETICAL CASE WHERE UNDISPUTED FACTS SHOW THAT A VEHICLE DRIVEN BY A DIPLOMATIC DEPENDENT OR STAFF MEMBER STRUCK AND KILLED A NATIONAL OF THE HOST COUNTRY. THE COURT OF THAT STATE MIGHT DETERMINE THAT THE INCIDENT WAS, (A) AN UNAVOIDABLE ACCIDENT BECAUSE OF HIGHWAY CONDITIONS, (B) AN IRRESPONSIBLE ACT BY AN INTOXICATED DRIVER, OR (C) A COLDLY PREMEDITATED POLITICAL ASSASSINATION COMMITTED ON ORDERS FROM THE SENDING COUNTRY'S INTELLIGENCE SERVICE - AND THEREBY DETERMINE IN THE COURT ROOM WHETHER IT HAD JURISDICTION TO PROCEED WITH THE PROSECUTION.

UNCERTAINTY OF THE CAPACITY OF FOREIGN COURTS TO DEAL OBJECTIVELY WITH SUCH DETERMINATIONS WAS ONE OF THE MAJOR REASONS FOR THE COMMUNITY OF NATIONS TO ADOPT TOTAL CRIMINAL IMMUNITY FOR THEIR REPRESENTATIVES ABROAD. THEIR FAMILY MEMBERS, STAFF AND FAMILY MEMBERS. IT IS WELL TO NOTE THAT IN FORMULATING THE VIENNA CONVENTION, THERE WAS NO DISPUTE OVER THE PROVISION EXTENDING FULL DIPLOMATIC PRIVILEGES AND IMMUNITIES TO THE FAMILY OF A DIPLOMATIC AGENT. MOREOVER, THE MAJORITY OF DRAFTERS OF THE CONVENTION RECOGNIZED THAT MANY OF THE ADMINISTRATIVE AND TECHNICAL STAFF MEMBERS OF THE MISSION CARRIED OUT FUNCTIONS OF SOME RESPONSIBILITY AND THAT MANY OF THEM HAD ACCESS TO HIGHLY CONFIDENTIAL INFORMATION (E.G., CODE CLERKS, COMMUNICATORS). AND DECIDED THAT THEY AND THEIR FAMILY MEMBERS SHOULD BE EXTENDED CRIMINAL IMMUNITY. IT WAS REGARDED AS ESSENTIAL THAT THESE STAFF MEMBERS SHOULD BE GRANTED FULL IMMUNITY SO THAT THEY COULD NOT BE ARRESTED ON ANY PRETEXT.

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(NOTE TO BE REMOVED - E. DENZA NOTES IN HER INTRODUCTION TO DIPLOMATIC LAW THAT THE VCDR REDUCED THE "PROTECTION AND PRIVILEGES GIVEN TO JUNIOR MEMBERS OF THE MISSION AS REGARDS WHOM IT COULD BE ARGUED THAT ABUSE BY THEM OF THEIR PRIVILEGES AND IMMUNITIES WAS MORE LIKELY THAN THEIR HARASSMENT FOR POLITICAL MOTIVES. THE REDUCTION OF PRIVILEGES AND IMMUNITIES TO WHAT IS ESSENTIAL MAKES THAT MINIMUM EASIER TO DEFEND TO PUBLIC OPINION.")

I NOTE THAT THE PROPOSED LEGISLATION WOULD NOT AFFECT CONSULAR OFFICERS. HOWEVER, THE IMMUNITY FROM JURISDICTION ENJOYED BY FOREIGN CONSULAR OFFICERS AND CONSULAR EMPLOYEES IS, IN ACCORDANCE WITH INTERNATIONAL LAW, MUCH MORE LIMITED THAN THE REGIME WHICH APPLIES TO DIPLOMATS. CONSULAR IMMUNITY APPLIES ONLY TO ACTS PERFORMED IN THE EXERCISE OF CONSULAR FUNCTIONS, I.E., TO "OFFICIAL ACTS". FAMILY MEMBERS HAVE NO OFFICIAL ACTS AND THUS HAVE NO IMMUNITY. CLAIMS OF "OFFICIAL ACTS" IMMUNITY ARE SUBJECT TO JUDICIAL SCRUTINY ON THE BASIS OF THE FACTS AND ARGUMENTS PRESENTED. THUS, CONSULAR OFFICERS ARE NOW SUBJECT TO JURISDICTION WITH RESPECT TO "CRIMES OF VIOLENCE". AS INDEED ARE CONSULAR EMPLOYEES. WHILE CONSULAR OFFICERS AND EMPLOYEES MAY RAISE THEIR FUNCTIONAL IMMUNITY AS A DEFENSE IN CONNECTION WITH A SPEEDING CHARGE OR ACCIDENT, THIS ITSELF IS NOT A BAR TO THE ACTION. THE COURTS WOULD DETERMINE WHETHER OR NOT SUCH A DEFENSE WOULD APPLY.

THE ONLY EXCEPTIONS TO THIS LIMITED IMMUNITY ARISE IN THE CASE OF BILATERAL AGREEMENTS WHICH PROVIDE FOR FULL IMMUNITY

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FROM CRIMINAL JURISDICTION OF CONSULAR OFFICERS AND EMPLOYEES AND THEIR FAMILY MEMBERS . THE DEPARTMENT OF STATE (?) HAS FOUND IT DESIRABLE TO ENTER INTO SUCH AGREEMENTS WITH THE SOVIET UNION, THE PEOPLE'S REPUBLIC OF CHINA, BULGARIA, THE GERMAN DEMOCRATIC REPUBLIC, HUNGARY, POLAND, ROMANIA AND THE PHILIPPINES. (BULGARIA, THE GDR AND ROMANIA HAVE NO CONSULAR POSTS IN THE UNITED STATES.)

NOW, I SHOULD LIKE TO TAKE THE OPPORTUNITY TO INFORM THE COMMITTEE OF RECENT STEPS THAT HAVE BEEN TAKEN BY THE DEPARTMENT TO DEAL WITH ABUSES OF DIPLOMATIC IMMUNITY. IN LIEU OF ACTION WHICH WOULD CALL INTO QUESTION THE ENTIRE FRAMEWORK OF DIPLOMATIC IMMUNITY, THE ADMINISTRATIVE MEASURES WE HAVE TAKEN ARE JUSTIFIED UNDER THE EXISTING LEGAL REGIME.

1. BARRING REENTRY: BEGINNING IN 1983, I INITIATED A SYSTEM TO BAR THE REENTRY INTO THE UNITED STATES OF SERIOUS OFFENDERS ENTITLED TO CRIMINAL IMMUNITY WHO HAD BEEN EXPELLED. THE NAMES OF THE OFFENDERS WERE ENTERED INTO THE DEPARTMENT'S WORLD-WIDE AUTOMATED VISA LOOKOUT SYSTEM (AVLOS) SO THAT SHOULD AN OFFENDER SEEK ANOTHER VISA, THE APPLICATION WOULD BE HELD UP UNTIL THE DEPARTMENT'S ADVICE COULD BE OBTAINED. AND, A CABLE DESCRIBING EACH CASE WAS SENT TO THE POST OF EACH PERSON'S NATIONALITY. THE NAMES WERE ALSO GIVEN TO THE CENTRAL OFFICE OF THE IMMIGRATION SERVICE, WHICH ALERTED PORTS OF ENTRY THAT ARRIVALS OF SUCH PERSONS WERE TO BE REPORTED IMMEDIATELY TO THE DEPARTMENT.

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WE FOUND, HOWEVER, THAT THE SYSTEM WAS NOT PERFECT AND THAT IN AT LEAST THREE CASES, THE PERSONS EXPELLED REPORTEDLY REENTERED THE UNITED STATES, PERHAPS BY USING THEIR DIPLOMATIC VISAS. FROM NOW ON, AS A MATTER OF PROCEDURE, WE WILL CANCEL THE VISA BEFORE THE ALLEGED OFFENDER LEAVES THE COUNTRY. SHOULD THE PERSON LEAVE BEFORE THIS IS DONE, WE CAN INFORM THE MISSION CONCERNED THAT THE PRINCIPAL ALIEN CANNOT BE REPLACED UNTIL THE VISA HAS BEEN CANCELLED.

IN THIS REGARD THE CONGRESS CAN BE VERY HELPFUL. AT THIS TIME, WE LACK THE LEGAL MEANS TO EXCLUDE THE OFFENDERS FROM COMING BACK INTO THE COUNTRY INASMUCH AS THEY HAVE NOT BEEN ACTUALLY CONVICTED. AN AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT PROVIDING FOR THE EXCLUSION FROM ADMISSION OF THESE OFFENDERS WOULD FILL THAT NEED. I HOPE THE CONGRESS WILL GIVE FAVORABLE CONSIDERATION TO THIS SUGGESTION.

2. POLICE GUIDANCE: IN MARCH OF THIS YEAR, THE DEPARTMENT PUBLISHED UPDATED AND MORE COMPREHENSIVE WRITTEN GUIDANCE FOR LAW ENFORCEMENT OFFICERS ON THE HANDLING OF INCIDENTS INVOLVING FOREIGN DIPLOMATIC AND CONSULAR PERSONNEL. IT HAS BEEN DISTRIBUTED NATION-WIDE. WITH REGARD TO EXPULSION CASES, WE HAVE POINTED OUT THE NECESSITY FOR CAREFUL AND COMPLETE POLICE WORK AT THE TIME OF THE ALLEGED CRIME IN ORDER TO LAY THE BASIS FOR POSSIBLE FUTURE PROSECUTION WHEN

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IMMUNITY CEASED TO EXIST AND WOULD NOT CONSTITUTE A BAR TO SUCH ACTION. WE URGE THAT CHARGES BE PURSUED AS FAR AS POSSIBLE IN OUR JUDICIAL SYSTEM SO AS TO LAY THE BASIS FOR PROSECUTION. OBTAINING AN INDICTMENT, INFORMATION, OR ARREST WARRANT, EVEN THOUGH THEY WOULD BE WITHOUT LEGAL EFFECT WHILE THE PROTECTED PERSON REMAINED HERE, WOULD LAY THE BASIS FOR PROSECUTION AT A LATER DATE. MOREOVER, THE EXISTENCE OF AN OUTSTANDING ARREST WARRANT MAY BE ENTERED INTO THE RECORDS OF THE IMMIGRATION AUTHORITIES AND THEREBY SERVE TO BAR THE SUBSEQUENT ISSUANCE OF A U.S. VISA. I WOULD BE GLAD TO MAKE THE BOOKLET AVAILABLE TO THE COMMITTEE.

3. PARENTAL RESPONSIBILITY IN THE PAST, IN EXCEPTIONAL CASES I HAVE HAD THE ENTIRE FAMILY OF JUVENILE OFFENDERS EXPELLED FROM THE COUNTRY. I HAVE ASKED MY STAFF TO PREPARE A DIPLOMATIC NOTE TO BE CIRCULATED TO ALL THE MISSIONS INFORMING THEM THAT THIS PRACTICE WILL BE EMPLOYED MORE FREQUENTLY AND THAT, HENCEFORTH, A DEPARTMENT OFFICER WILL BE PRESENT ON THE DEPARTURE OF A PERSON(S) EXPELLED.

4. TRAFFIC OFFENSES - 8 POINT PROGRAM IN SEPTEMBER 1985, THE DEPARTMENT'S OFFICE OF FOREIGN MISSIONS INSTITUTED A PROGRAM TO MONITOR TRAFFIC VIOLATIONS AND INCREASE THE OBSERVANCE OF TRAFFIC LAWS AND REGULATIONS. UNDER THE PROGRAM, THE DEPARTMENT ASSESSES POINTS FOR ALL TRAFFIC VIOLATIONS USING THE AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATOR'S STANDARDIZED POINT SYSTEM. THE

ACCUMULATION OF 8 POINTS DURING A TWO-YEAR PERIOD MAY

- 10 -

RESULT IN THE LOSS OF THE PRIVILEGE TO DRIVE IN THIS COUNTRY. PERSONS RECEIVING PARKING VIOLATIONS INCUR 1 POINT EACH. SPEEDING VIOLATIONS ARE ASSESSED AT 2 OR 4 POINTS DEPENDING UPON THE RATE OF SPEED, AND PERSONS DRIVING WHILE INTOXICATED ARE ASSESSED 8 POINTS. UP TO THIS TIME, 2 DRIVERS' LICENSES HAVE BEEN WITHDRAWN. WE ARE PLEASED TO REPORT THAT THE PROGRAM HAS HAD A SALUTARY EFFECT ON THE DRIVING HABITS OF PRIVILEGED PERSONNEL.

5. FIREARMS IN MAY 1986, WE REISSUED A CIRCULAR ON THE SUBJECT OF FIREARMS, POINTING OUT THAT FAILURE TO COMPLY WITH LOCAL LAWS AND REGULATIONS PERTAINING TO FIREARMS MAY SUBJECT THE OFFENDER TO EXPULSION.
6. DEFINITION OF "MEMBERS OF THE FAMILY" IN MAY 1986, WE INFORMED THE MISSIONS THAT WE WOULD INTERPRET THE VIENNA CONVENTION MORE RESTRICTIVELY AND SET FORTH AGE LIMITS BEYOND WHICH THE DEPARTMENT WOULD NO LONGER EXTEND PRIVILEGES AND IMMUNITIES TO DEPENDENT CHILDREN. THE CUT-OFF AGE IS 21 YEARS OF AGE, UNLESS THE CHILD IS A FULL-TIME STUDENT, IN WHICH CASE THE AGE LIMITATION IS 23 YEARS OF AGE. THIS STEP HAS REDUCED THE NUMBER OF PERSONS ENTITLED TO PRIVILEGES AND IMMUNITIES.
7. CESSATION OF PRIVILEGES AND IMMUNITIES FOR CERTAIN PERSONS WE ARE PLANNING TO INFORM THE MISSIONS OF THE CESSATION OF PRIVILEGES AND IMMUNITIES FOR LOCALLY HIRED MEMBERS OF EMBASSY STAFFS WHO HAVE RESIDED IN THE UNITED STATES FOR 10

- 11 -

YEARS OR MORE. INTERNATIONAL LAW PROVIDES ENTITLEMENT TO PRIVILEGES AND IMMUNITIES IF THE ALIEN IS "NOT...PERMANENTLY RESIDENT IN THE RECEIVING STATE...." THIS WILL REDUCE THE NUMBER OF PERSONS ENTITLED TO PRIVILEGES AND IMMUNITIES.

8. HANDBOOK FOR DIPLOMATS THE DEPARTMENT IS COMPILING A MANUAL OF POLICIES, PROCEDURES AND PRACTICES RELEVANT TO THE OPERATION OF DIPLOMATIC MISSIONS AND THEIR MEMBERS IN THE UNITED STATES. IT WILL COVER POSSIBLE CONSEQUENCES OF BREACHES OF UNITED STATES LAW.
9. IDENTIFICATION DOCUMENTS. RECENTLY PROTOCOL BEGAN ISSUING NEWLY DESIGNED IDENTIFICATION DOCUMENTS TO ALL EMBASSY PERSONNEL ENTITLED TO ANY DEGREE OR IMMUNITY. THE CARDS IDENTIFY THE INDIVIDUAL, STATE THE TYPE OF IMMUNITY WHICH HE ENJOYS, AND PROVIDE PHONE NUMBERS TO CALL 24 HOURS A DAY IF A LAW ENFORCEMENT OFFICIAL HAS QUESTIONS. IN CASES WHERE IMMUNITY IS LIMITED THE CARDS STATE THAT THE BEARER IS NOT IMMUNE FROM ARREST. SIMILAR CARDS WILL BE ISSUED TO CONSULAR OFFICERS AND EMPLOYEES NEXT YEAR.

IN CLOSING, I WISH TO EXPRESS MY APPRECIATION FOR THIS OPPORTUNITY TO PRESENT THE DEPARTMENT'S VIEWS ON THIS SENSITIVE MATTER. ALSO, I WISH TO ASSURE YOU AGAIN THAT WE STAND READY TO TAKE ACTION IN ANY SITUATION WHERE A PERSON WITH IMMUNITY APPEARS TO BE "BEYOND THE LAW."

MY COLLEAGUES AND I WILL NOW BE PLEASED TO RESPOND TO ANY QUESTIONS THE COMMITTEE MAY HAVE.

Page Denied

TAB B

an elite corps of 7,000 of the government's top managers. Declassified in Part - Sanitized Copy Approved for Release 2013/02/07 : CIA-RDP90G01353R001300070002-3

While the data do demonstrate some increase in noncareer personnel in the SES, the senator went into orbit a little too fast. The report relies heavily on percentages rather than actual numbers. But a 57.1 percent increase in noncareer appointees in the Department of the Air Force translates to an increase of 1,000 individuals; a 71.4 percent rise in the Navy reflects the addition of five people. In fact, except for the Justice Department, which added 29

Schedule C slots was 1,000 "prior to the Carter administration" and has now "ballooned to over 1,600," more than two-thirds of that growth occurred during the four Carter years.

There is cause to complain about the quality of many Reagan appointments and frustration when political types are moved into the SES—where Senate confirmation is not required. But the numbers themselves are not a scandal. Fortunately for the country, the civil service will survive.

... And Abroad

Washington Post - 10 Aug 87

THE SENATE Foreign Relations Committee recently heard some horror stories that didn't originate in Managua or Beirut. Witnesses testified about crimes committed against American citizens in this country by foreigners with diplomatic immunity. Diplomats were told of the officials in the Afghan U.N. Mission who ran down a New York City girl because they wanted her parking space. They heard testimony about a series of rapes attributed to the son of an attaché at the Ghanaian mission, the assault by the Mexican ambassador to the U.N. and a shooting by the son of the Brazilian ambassador in this city. None of those charged was prosecuted criminally because each had diplomatic immunity. It makes the blood boil. And, reflecting this, Sen. Jesse Helms has proposed legislation that would do away with diplomatic immunity for all but a handful of senior diplomats. Families and administrative and technical personnel at embassies would be subject to prosecution.

Satisfying as the idea sounds—and no one can deny a powerful desire to do something about these outrageous outrages—the State Department has entered strong and plausible objections. Diplomatic immunity, as Protocol Chief Selwa Roosevelt testified, is essential to help protect American diplomats abroad. Restricting it severely not only would be a

violation of international treaties, it would also invite retaliatory action by foreign governments.

None of this means that the U.S. government should sit still for these abuses of diplomatic privilege here—and in fact, the government has not been passive about them. Actions have been taken to crack down on law violators. Offenders and, in the case of juveniles, their entire families have been expelled from this country. Diplomatic visas have been canceled and their holders' names entered into a computer system to guard against reentry. Written guidelines have been provided to police departments urging officers to complete investigations in order to be prepared for possible criminal prosecutions if offenders manage to reenter the country. Serious or numerous traffic offenses—a single incidence of drunk driving for example—will result in the loss of a driver's license. Firearms violations are grounds for immediate expulsion. And diplomats' children over 21, or students over 23, are no longer entitled to immunity.

Sen. Helms has apparently been persuaded that his bill would cause more problems than it would solve, and he has indicated that he is open to compromise. That's good. It is possible—and important—to be firm at home without jeopardizing the safety of American diplomats abroad.

More Farm Bailout

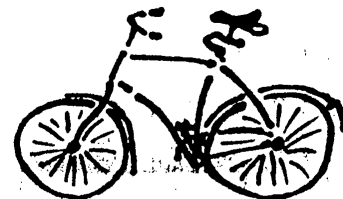
THE HOUSE AGRICULTURE Committee has sent to the floor a farm credit bill that faces and fudges the grim truth of the matter all in the same short phrase. The idea is to bail out the tattered Farm Credit System. The

longer worth as much as they owe. To avert default in the bond markets where it raises funds, the system is in need of extra cash.

The healthier banks in the system still have reserves. The administration would like to tap

than a decade, yet people reside there in public view without apparent concern.

we volunteered to care for sidewalk tree boxes. We hope kinds of improvements would



Bicycle Bells

The thousands of walkers and joggers who traverse byways, paths and sidewalks do so at risk of life and limb. Many have already fallen hit from behind by cyclists who could not forewarn them as they sped toward them.

As an ardent walker, I would strongly recommend to our city officials that bells (or something similar) be required on all cycle helmets. Casualties mount, with no relief in sight.

MICKY BAZER
Washington

Jets at National: A Nightly Cacophony

Since National Airport has been "de-federalized" residents living up and down the Potomac have been subjected to a nightly bombardment of jet racket from planes landing at the airport. No longer does the airport shut down at 10 p.m.—the window-rattling noise now goes on well past midnight.

This nonstop racket just can't be good for anybody's mental or physical health. It means a relatively light sleeper such as myself can get no more than five hours of sleep at night. (I have to get up at 5:30 a.m. to go to work.) I have a well-insulated house with central air conditioning, but the jet noise comes through loud and clear. I have tried white noise and soothing tapes, but they are drowned out. Even wax ear-plugs are no match for the jets. Can you imagine what the racket level will be once we lose the leaf buffer this fall?

Since mid-June I have been trying, in vain, to find out who is responsible for the decision to unleash this ever-increasing nightly cacophony. Not the Council of Governments—its spokesperson claims no COG authority, but it does have a working group studying

A phone number listed in phone-book white pages under Arlington National Airport Noise complaints is a wrong number of some poor fellow with no connection whatsoever to the airport. The information operator will give you the number one number from the phone-book like a call to that number elicits this is no longer a working response. The new airport will give you the names of two who take noise complaints, but I have ever been available to take my many calls.

Our duly elected representatives have no responsibility either, quick to take full credit for driving forces behind the noise achievement of "de-federalization" they don't answer letters asking to be the driving forces in the stop the late-night airport racket near as I can tell, nobody is responsible for this noise pollution, and it's worse and worse. Isn't there out there who can stop the racket?

DONALD R. M.

S 8876

CONGRESSIONAL RECORD — SENATE

June 26, 1987

Ditch Company diversions from the Yakima River for delivery from the Roza Canal; and (3) development of groundwater resources within the Roza Division for a supplemental irrigation water supply.

(b) There are hereby authorized to be appropriated to the Secretary for such feasibility study \$500,000 (October 1986 prices); *Provided*, That the Secretary is authorized to accept funds from any entity, public or private, to assist in the financing of such feasibility study.

Sec. 11. Nothing in this Act shall be construed to—

(a) affect or modify any treaty or other right of the Yakima Indian Nation;

(b) authorize the appropriation or use of water by any Federal, State, or local agency, the Yakima Indian Nation, or any other entity or individual;

(c) affect the rights or jurisdictions of the United States, the States, the Yakima Indian Nation, or other entities over waters of any river or stream or over any groundwater resource;

(d) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States;

(e) alter, establish, or affect the respective rights of States, the United States, the Yakima Indian Nation, or any person with respect to any water or water-related right; or

(f) alter, diminish, or abridge the rights and obligations of any Federal, State, or local agency, the Yakima Indian Nation, or other entity, public or private.

Mr. ADAMS. Mr. President, I arise as a proud cosponsor of this legislation. The Yakima River Basin Water Enhancement Project, certain elements of which are authorized by this legislation, is of enormous importance to Washington State. This bill represents a significant agreement between the various communities that live in the Yakima River Basin, and as such represents a crucial step toward successful completion of this project.

The Yakima River Basin water enhancement project is necessary because in a bad dry year there really isn't enough water in this basin to go around. The Yakima River Basin is the home of diverse peoples with diverse needs for water. It is the home of the Yakima Indian nation, who are strongly interested in preserving and upgrading their traditional fisheries. It is also the home of farmers who grow fruit and raise cattle, farmers who depend on irrigated water for their livelihoods.

The history of the basin is to some extent a history of conflict between these two water user groups. I hope that the introduction of this bill today is a chapter in a new history in the basin, a history of cooperation for the common good.

This bill authorizes certain elements of the overall project. It authorizes modernization of existing irrigation facilities, both on the Yakima Indian Reservation, and in various irrigation districts along the river basin. Many of these elements are designed to enhance water conservation, and to promote more efficient use of existing water resources.

This bill also makes the first step toward developing a long-term solu-

tion for the water needs of the Yakima River Basin by authorizing construction of storage facilities at Cabin Creek. Construction of this facility will be contingent on analysis of the economic and technical feasibility of this site by the Bureau of Reclamation, and on a determination by the Department of the Interior that this project is in compliance with all applicable laws.

Mr. President, I would like to commend my good friend and colleague, Senator EVANS, for his long years of effort and leadership on this issue. This bill is also the product of hard work by Congressman MORRISON, the State of Washington, and the Northwest Power Planning Council. Finally, I would also like to again commend the people of the Yakima River Basin for coming to the agreements reflected in this legislation. This is essentially their bill, and this project will hopefully be an important part of their future.

By Mr. DANFORTH:

S. 1436. A bill to amend the Hazardous Materials Transportation Act regarding the transportation by rail of certain materials, and for other purposes; to the Committee on Commerce, Science, and Transportation.

RAIL TRANSPORT OF HIGH LEVEL NUCLEAR WASTES

● Mr. DANFORTH. Mr. President, transporting hazardous cargo—be it petroleum products, chemicals, radioactive wastes, or other materials—is an unfortunate but necessary part of this Nation's daily life. While only about 3 percent of all hazardous shipments involve radioactive materials, the threat of harm looms large in this area. Consequently, Congress must be especially vigilant with regard to our policies and procedures related to radioactive shipments.

I am introducing legislation today which would amend the Hazardous Materials Transportation Act [HMTA] to require that rail transportation of high-level radioactive waste and spent nuclear fuel be done on trains operated exclusively for that purpose. In other words, this legislation would require such shipments to be transported on dedicated trains.

This is a matter of great interest to the citizens of Missouri and every State affected by the Department of Energy's [DOE] shipment of damaged core materials from the Three Mile Island [TMI] reactor in Pennsylvania to DOE's research facility in Idaho Falls. Ever since this particular shipping campaign commenced, TMI spent nuclear fuel has been hauled on dedicated trains made up of a locomotive, a buffer car or idler, a cask car carrying the specially designed spent nuclear fuel container, another idler, and a caboose.

The railroads prefer to move radioactive materials from source to destination in the safest possible manner. The fact that radioactive materials

present unique hazards, as well as the uncertainty of what would occur in the event of an accident, justify taking all reasonable safety precautions including the use of dedicated trains.

At this time, however, it appears that the use of mixed trains to transport high-level radioactive materials is inevitable unless Congress takes action to prevent it. First of all, neither DOE nor DOT require that high-level radioactive materials or spent nuclear fuel be transported in trains moving only that material. In addition, the Interstate Commerce Commission has ruled that the railroads cannot unilaterally decide to ship by dedicated train and expect to be compensated for that level of safety.

At the beginning of the TMI campaign, DOE said that high level radioactive shipments should use routes involving the least amount of switching on the best tracks available. Safety, not economic considerations, was its overriding concern. If a railroad preferred to ship by dedicated trains, DOE was willing to pay the premium. However, DOE now seems unwilling to provide reasonable compensation to the railroads for dedicated train service. It seems to want to rely solely upon the structural integrity of the casks used to carry nuclear wastes.

This was confirmed during a May 12 hearing before the Senate Subcommittee on Surface Transportation. DOE admitted that mixed trains, which may be carrying flammable or explosive materials in addition to nuclear materials, will be picking up and dropping off cars across the country, and will be subject to the switching and jolting that DOE originally sought to avoid.

The legislation I am introducing would require that all rail shipments of high-level nuclear wastes and spent nuclear fuel be on dedicated trains. It is my hope that the Senate will act on this legislation soon, either as a free-standing bill, or as a part of other legislation. Perhaps it could be included in legislation reauthorizing the Hazardous Materials Transportation Act. Perhaps an even more attractive legislative vehicle will present itself. I will be looking for an appropriate opportunity to expedite action on this measure.

Mr. President, I urge my colleagues to support this important initiative. ●

By Mr. HELMS:

S. 1437. A bill to make certain members of foreign diplomatic missions and consular posts in the United States subject to the criminal jurisdiction of the United States with respect to crimes of violence; to the Committee on Foreign Relations.

DIPLOMATIC CRIMES

Mr. HELMS. Mr. President, I am introducing today legislation which is overdue and, in my judgment, made more necessary each day that passes.

June 26, 1987

CONGRESSIONAL RECORD — SENATE

S 8877

The proposal, Mr. President, is designed to limit the diplomatic immunity enjoyed—or should I say frequently abused—by the family and support staff of foreign diplomats. In effect, the bill would also restore to innocent American citizens the rights, privileges and freedoms which were guaranteed to them 200 years ago in the Constitution.

I bring to the attention of the Senate, Mr. President, the fact that in the United States today, there reside over 37,000 individuals who are not citizens of this country and yet enjoy more freedom, liberty and personal privileges than our own countrymen. Indeed, there are 37,000 individuals in this country who are free to commit any crime, no matter how serious, how violent, how heinous, and remain free from prosecution.

In their book entitled "Diplomatic Crime" Chuck Ashman and Pamela Trescott detail in 350 pages the horrors suffered by innocent Americans at the hands of foreign residents who have no regard or remorse for their victims—our citizens.

Two hundred years ago, Thomas Jefferson wrote in the Preamble to the Constitution:

We hold these truths to be self-evident; that all men are created equal; that they are endowed by their creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness.

Unfortunately, for hundreds of Americans, their unalienable rights have been alienated, and continue to be alienated by foreign criminals who hide behind cloak of diplomatic immunity.

For innocent Americans like Carol Holmes who was brutally raped in her own home, or "Holly" a young Washington DC, teenager who was gang raped—there is no personal liberty. For residents like Dr. Halla Brown, professor of medicine and chief of the allergy clinic at George Washington University, there is no such thing as freedom. Her professional career, her contribution to our community, her financial independence and her personal life were all destroyed by a Panamanian diplomat who, through his callous arrogance and disregard for simple traffic regulations, has left Dr. Brown a prisoner in her own quadriplegic body. And for a young man like Kenneth Skeen, who had honorably served our country in military service, his guarantee of a right to life was all but extinguished by the son of a South American diplomat who shot him three times and left him to fight for his life in an intensive care unit.

In each of these cases, our citizens, these victims of international arrogance have not only been denied their constitutional rights of life, liberty, and the pursuit of happiness, they have also been denied the right of redress of grievances, the right of equal protection under law, and the right, Mr. President, to expect what every American is taught to expect and be-

lieve when they recite the Pledge of Allegiance—the right of liberty and justice for all.

I believe that our colleague, the distinguished senior Senator from West Virginia, Senator BYRD, stated it most succinctly when, in reference to the shooting of Kenneth Skeen, he said it seemed:

Inconceivable to me that the relative of a diplomat can carry a gun in this country and shoot an American citizen and cannot be arrested; cannot be brought to trial; can just be turned loose on the street.

I too think it inconceivable that such an outrageous lack of regard for our system of justice, our due process of law, and the rights of our citizens has been allowed to continue in this country. I think it is time that we, the representatives of the people of this Nation, put an end to the legal loophole that has allowed the family and support staff members of foreign diplomats to deny to our citizens the freedoms and protections which are rightfully theirs.

By Mr. DURENBERGER (for himself, Mr. HEINZ, Mr. DASCHLE, Mr. LUGAR, Mr. GLENN, Mr. MCCAIN, Mr. EXON, Mr. WIRTH, Mr. GRASSLEY, Mr. BOSCHWITZ, Mr. HECHT, Mr. BURDICK, Mr. PRESSLER, Mr. CONRAD, Mr. STAFFORD, Mr. HATCH, and Mr. STEVENS):

S. 1438. A bill to assist rural hospitals facing unfair Medicare payment policies; to the Committee on Finance.

MEDICARE RURAL HOSPITAL PAYMENT EQUITY ACT

• Mr. DURENBERGER. Mr. President, today, along with my colleagues, Mr. HEINZ, Mr. DASCHLE, Mr. LUGAR, Mr. COHEN, Mr. MCCAIN, Mr. EXON, Mr. WIRTH, Mr. GRASSLEY, Mr. BOSCHWITZ, Mr. HECHT, Mr. BURDICK, Mr. PRESSLER, Mr. CONRAD, Mr. STAFFORD, Mr. HATCH, and Mr. STEVENS. I am pleased to introduce the Medicare Rural Hospital Payment Equity Act of 1987. This act is designed to provide assistance to rural hospitals faced with unfair Medicare payment policies.

Mr. President, in January of this year, President Reagan went to Bethesda Naval Hospital and successfully underwent prostate surgery performed by a team of Minnesota physicians. I'm not sure what the President's surgery cost, and I doubt if the procedure was paid for through the normal Medicare payment system.

But, had the President gone to Douglas County Hospital in Alexandria, MN, presented his Medicare card, and had his surgery paid for like most Medicare beneficiaries, the Medicare payment to Douglas County Hospital would have been \$2,233. Had the President gone to a hospital in Minneapolis for his surgery, however, Medicare would have paid \$3,640—over 50 percent more.

This case is an example of what is known in hospital circles as the urban-rural differential in the Medicare pay-

ment system. And, this illogical and unconscionable bias against rural hospitals is today, in 1987, one of the principal reasons that rural health care in this country is in very serious trouble.

Mr. President, our rural hospitals are ailing. From rural America, we hear an outpouring of concern that the primary focus of many communities' health care—the rural hospital—is in jeopardy of disappearing.

The present Medicare payment system doesn't adequately account for the fact that small rural hospitals like those in Deer River and Northfield, MN compete for the same doctors and nurses, buy from the same suppliers, and have other costs comparable to those in metropolitan areas such as Minneapolis/St. Paul or Duluth. In fact, the rural/urban differential is entirely arbitrary and capricious, penalizing a hospital if it happens to be located in an area classified as "rural," when just across some imaginary line is a hospital with the same underlying costs, but receiving higher payments.

In Minnesota, the financial underpinnings of many rural hospitals are so strained that talk of hospital closure is not uncommon. Rural hospitals have, in addition, to contend with a depressed economy and an aging and often declining population. Four rural hospitals in Minnesota have closed in the past 3 years, and the situation is projected to get worse: 36 of the State's 170 hospitals are in financial trouble, most are rural.

A similar picture is developing nationwide. From 1980 to 1985, of 214 hospitals that closed, 86 were rural. In 1985, there were 49 closings with urban closings slightly outnumbered rural, 28 to 21. But in 1986, 71 community hospitals closed—more than in any other year of this decade—and more than half were in rural areas.

Rural residents cite numerous reasons for the general decline in rural hospitals' financial health: The downturn in local agricultural and natural resource-based economies; the shift toward less expensive outpatient care with a parallel decline in inpatient hospital services, and profound changes in payment policies of Medicare and other payors.

It is toward this latter impact—the impact of Medicare payment changes—that rural communities are directing their frustration and anger. Rural residents are angry because they believe Medicare payment policies are unfair to rural hospitals. And they are not alone in their belief. Their concerns are echoed by such organizations as the American Hospital Association, which at its most recent house of delegates meeting urged its members to put aside self-interest in recognizing the need to resolve the issue of inequitable Medicare payments to rural hospitals.

And, the independent and respected Prospective Payment Assessment Commission [ProPAC], in a report

LEGI-SLATE Report for the 100th Congress

August 10, 1987 14:20(EDT)

Report for S.1437 Diplomatic Crimes, Provisions
As introduced in the Senate, June 26, 1987
Complete Text of this version

II
*(Star Print)

100th CONGRESS
1st Session

S. 1437

To make certain members of foreign diplomatic missions and consular posts in the United States subject to the criminal jurisdiction of the United States with respect to crimes of violence.

IN THE SENATE OF THE UNITED STATES
June 26 (legislative day, June 23), 1987

Mr. Helms introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To make certain members of foreign diplomatic missions and consular posts in the United States subject to the criminal jurisdiction of the United States with respect to crimes of violence.

=====

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law and, particularly, the Vienna Convention on Diplomatic Relations, done on April 18, 1961, and the Vienna Convention on Consular Relations, done on April 24, 1963, members of a foreign diplomatic mission (other than diplomatic agents) and members of a foreign consular post (other than consular officers) shall not be entitled to immunity from the criminal jurisdiction of the United States (or of any State) for any crime of violence, as defined in section 16 of title 18, United States Code, for drug trafficking, or for reckless driving or driving while intoxicated or under the influence of alcohol or drugs.

(b) For purposes of this Act--

(1) the term "consular officer" has the same meaning as is given to such term in Article 1(1)(d) of the Vienna Convention on Consular Relations;

LEGI-SLATE Report

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August 10, 1987

(2) the term "diplomatic agent" has the same meaning as is given to such term in Article 1(e) of the Vienna Convention on Diplomatic Relations;


(3) the term "members of a foreign consular post" is used within the meaning of Article 1(1)(g) of the Vienna Convention on Consular Relations; and

(4) the term "members of a foreign diplomatic mission" is used within the meaning of Article 1(b) of the Vienna Convention on Diplomatic Relations.

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Remarks

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Executive Secretary

7 Aug 87

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